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10/574,026	03/23/2006	Herbert Brunner	502902228PUS	8015
27799 7590 04/02/2008 COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176				
EXAMINER				
HOLLWEG, THOMAS A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,026

Applicant(s)

BRUNNER ET AL.

Examiner

Thomas A. Hollweg

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 July 2007.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 23 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-850)
Paper No(s)/Mail Date 3/23/06, 3/23/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements (IDS), both submitted on March 23, 2006, are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Preliminary Amendment

2. Applicant's preliminary amendment, received March 23, 2006, is acknowledged and has been entered.

3. Applicant's preliminary amendment, received July 19, 2007, is acknowledged and has been entered.

Claim Objections

4. The following claims are objected to because of the following informalities:

- a. Claim 1, "the high-temperature stable modification HT" lacks antecedent basis. Further, this modification is not defined in the claims.
- b. Claim 5, "SiN" lacks antecedent basis. For purposes of examination, it is assumed that "SiN" is a reference to the SiN group in the molecule of the oxynitridosilicate of formula $MSi_2O_2N_2$.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 7, 9-11, 13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmidt et al., U.S. Patent No. 7,061,024 B2.
7. With regard to claim 1, in figure 1, Schmidt discloses a white-emitting LED with a defined color temperature, designed as a luminescence conversion LED, comprising: a primary radiation source (1), which is a chip that emits in the blue spectral region; a layer (3) of two phosphors (4, 5) in front of said source (1), both of which phosphors (4, 5) partially convert the radiation of the chip (1); wherein the first phosphor is from the class of the oxynitridosilicates having a cation M and the empirical formula $M_{(1-c)}Si_2O_2N_2:D_c$, where M comprises Sr as the main constituent and D is doped with divalent Europium, $M=Sr$ or $M=Sr_{(1-x-y)}Ba_yCa_x$ with $0 \leq x+y < 0.5$ being used, the oxynitridosilicate completely or predominantly comprising the high-temperature-stable modification HT; and wherein the second phosphor is a nitridosilicate of formula $(Ca,Sr)_2Si_5N_8:Eu$, producing a color temperature of from 2300 to 7000 K and at the same time achieving a color rendering of at least $R_a = 80$ (col. 3, line 59 – col. 4, line 15 & col. 7, lines 32-42).
8. With regard to claim 2, in figure 1, Schmidt discloses that in the oxynitridosilicate the Eu fraction makes up between 0.1 and 20 mol % of M (col. 4, line 4 & col. 6, lines 47-48).

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9. With regard to claim 3, in figure 1, Schmidt discloses that a proportion of M, in particular up to 30 mol %, is replaced by Ba and/or Ca and/or Zn (col. 4, line 4).
10. With regard to claim 7, in figure 1, Schmidt discloses that the chip is an InGaN chip (col. 5, line 42).
11. With regard to claim 9, in figure 1, Schmidt discloses that the LED has a color temperature of from 2700 to 3300 K (col. 7, lines 32-42).
12. With regard to claim 10, in figure 1, Schmidt discloses that the LED achieves the white luminous color by color mixing with the RGB principle, with the primary emission of the blue LED having a peak wavelength of from 430 to 470 nm (col. 5, lines 10-42).
13. With regard to claim 11, in figure 1, Schmidt discloses that the emission from the chip (1) has a peak wavelength in the range from 450 to 465 nm (col. 5, lines 31-42).
14. With regard to claim 13, in figure 1, Schmidt discloses that the nitridosilicate contains Sr as a permanent component, and Ca in a proportion of from 0 to 60 mol % (col. 4, line 11).
15. With regard to claim 15, in figure 1, Schmidt discloses that an Ra of at least 85 is achieved (col. 7 lines 32-42).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt as applied to claim 1 above, in view of Tamaki, et al., U.S. Patent Application Publication No. 2004/135504 A1.

18. With regard to claim 4, all of the limitations are disclosed by Schmidt, as discussed in the rejection of claim 1, however, Schmidt does not expressly disclose that a proportion of M, in particular up to 30 mol %, is replaced by Li and/or La and/or Na and/or Y. Tamaki teaches a europium activated phosphor having a similar composition to the claimed phosphor [0463], where a portion of the phosphor is replaced by Li and or Na because the inclusion of these elements enlarges the particle diameter of the phosphor and enhances luminescence brightness [0468].

19. At the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the Schmidt white-light emitting LED where a proportion of M, in particular up to 30 mol %, is replaced by Li and/or Na to enlarge the particle diameter of the phosphor and enhance luminescence brightness, as taught by Tamaki [0468].

20. With regard to claim 5, all of the limitations are disclosed by Schmidt, as discussed in the rejection of claim 1, however, Schmidt does not expressly disclose that a proportion of SiN, in particular up to 30 mol %, is replaced by AlO. Tamaki teaches a europium activated phosphor having a similar composition to the claimed phosphor [0463], where a portion of the phosphor is replaced by Al because the inclusion of this element enlarges the particle diameter of the phosphor and enhances luminescence brightness [0468]. One having skill in the art would understand that including a portion of AlO would add Al to the phosphor to achieve this improvement.

21. At the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the Schmidt white-light emitting LED where a proportion of SiN, in particular up to 30 mol %, is replaced by AlO to enlarge the particle diameter of the phosphor and enhance luminescence brightness, as taught by Tamaki [0468].

22. With regard to claim 6, all of the limitations are disclosed by Schmidt, as discussed in the rejection of claim 1, however, Schmidt does not expressly disclose that a proportion of Eu, in particular up to 30 mol %, is replaced by Mn. Tamaki teaches a europium activated phosphor having a similar composition to the claimed phosphor [0463], where a portion of the europium is replaced with manganese because the inclusion of manganese accelerates the diffusion of the europium and improves the luminescence properties [0467].

23. At the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the Schmidt white-light emitting LED where a proportion of Eu, in particular up to 30 mol %, is replaced by Mn to accelerate the diffusion of the europium and improve the luminescence properties of the phosphor, as taught by Tamaki [0467].

24. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt as applied to claim 1 above, in view of itself.

25. With regard to claim 12, all of the limitations are disclosed by Schmidt, as discussed in the rejection of claim 1 above, including that the oxynitridosilicate has an emission of green (col. 4, lines 2-3). However, Schmidt does not expressly disclose that the emission of the oxynitridosilicate has a dominant wavelength λ_{dom} in the range from

550 to 570 nm. Schmidt teaches that the emissive properties of the green light source can be tailored to have peak emission with a specified range (col. 2, lines 29-34).

26. At the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the Schmidt white-emitting LED where the emission of the oxynitridosilicate has a dominant wavelength λ_{dom} in the range from 550 to 570 nm, so that the color temperature of the device can be tailored to meet a specific requirement, as taught by Schmidt.

27. With regard to claim 14, all of the limitations are disclosed by Schmidt, as discussed in the rejection of claim 1 above, including that the nitridosilicate has an emission of red (col. 4, lines 6-11). However, Schmidt does not expressly disclose that the emission of the nitridosilicate has a dominant wavelength λ_{dom} in the range from 620 to 660 nm. Schmidt teaches that the emissive properties of the red light source can be tailored to have peak emission with a specified range (col. 2, lines 29-34).

28. At the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the Schmidt white-emitting LED where the emission of the nitridosilicate has a dominant wavelength λ_{dom} in the range from 620 to 660 nm, so that the color temperature of the device can be tailored to meet a specific requirement, as taught by Schmidt.

29. Claims 8, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt as applied to claim 1 above, in view of Bischoff, U.S. Patent No. 6,158,882.

30. With regard to claim 8, Schmidt discloses all of the limitations, as discussed in the rejection of claim 1, however, Schmidt does not expressly disclose that the LED is dimmable. Bischoff, in figure 1, teaches an LED device (10) that is dimmable (col. 2, lines 15-31).

31. At the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the Schmidt white-emitting LED so that it is dimmable, as taught by Bischoff. An LED light source that is dimmable is very useful for many applications, such as aircraft cabins (col. 2, lines 50-54).

32. With regard to claim 16, Schmidt discloses all of the limitations, as discussed in the rejection of claim 1, however, Schmidt does not expressly disclose that the system includes electronics for driving the individual LEDs or groups of LEDs. Bischoff, in figure 1, teaches an LED system that includes electronics (50, 80) for driving the individual LEDs (40) or groups of LEDs.

33. At the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the Schmidt white-emitting LED system so that it includes electronics for driving the individual LEDs or groups of LEDs, as taught by Bischoff. Groups of LED that are individually controllable are very useful for illumination applications, as taught by Bischoff (col. 2, lines 50-57).

34. With regard to claim 17, Schmidt and Bischoff disclose all of the limitations, as discussed in the rejection of claim 16. Further Bischoff teaches that the electronic control (50, 80) includes means which impart dimmability (50) (col. 4, lines 66-67).

Conclusion

35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Hollweg whose telephone number is (571) 270-1739. The examiner can normally be reached on Monday through Friday 7:30am-5:00pm E.S.T..

36. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

37. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TH/

/Nimeshkumar Patel/
Supervisory Patent Examiner, Art Unit 2879